

## **CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 440**

**Citations Affected:** IC 13-11-2-66.2.

**Synopsis:** Air pollution. Conference committee report to ESB 440. Requires the air pollution control board to adopt certain air pollution rules. Defines emission data for purposes of department of environmental management information disclosure requirements and those air pollution rules. **(This conference committee report deletes provisions to: (1) prohibit the air pollution control board (board) from adopting rules to require motor vehicle emissions testing in Clark and Floyd counties after December 31, 2006; (2) allow the budget agency to approve testing if necessary to avoid a loss of federal highway funding; (3) prohibit the board from establishing fees to be paid for testing; (4) adopt the National Flood Insurance Program regulations as the criteria for determining whether a person is allowed to construct a new residence in a floodway along the Ohio River; (5) specify the lowest floor of a new residence constructed in a floodway must be at least two feet above the 100 year frequency flood elevation; (6) require the maintenance and protection of outstanding state resource waters and exceptional use waters, and require the water pollution control board to adopt certain rules concerning those waters; (7) limit sale and distribution of plastic bags that are not degradable; (8) suspend for five years the authority of IDEM to adopt a new rule or policy that requires certain industries to comply with standards of conduct that exceed federal standards; (9) extend the period during which a state agency or board may not enforce certain wetlands rules; and (10) prohibit a solid waste management district from regulating conduct that is regulated by a state agency, except as expressly granted by statute.)**

**Effective:** Upon passage; January 1, 2003 (retroactive).

# CONFERENCE COMMITTEE REPORT

**MR. PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 440 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert:
- 2 SECTION 1. IC 13-11-2-66.2 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 66.2. "Emission data",**
- 5 **for purposes of IC 13-14-11, means any of the following:**
- 6 (1) **The identity, amount, frequency, concentration, or other**
- 7 **characteristics (related to air quality) of any contaminant that:**
- 8 (A) **has been emitted from; or**
- 9 (B) **results from any emission by;**
- 10 **an emission unit authorized to emit under an applicable**
- 11 **standard or limitation.**
- 12 (2) **The name, address, or other description of the location and**
- 13 **the nature of the emission unit necessary to identify the**
- 14 **emission unit, including a description of the device, equipment,**
- 15 **or operation constituting the emission unit.**
- 16 (3) **Information necessary to:**
- 17 (A) **determine a permit condition that assures compliance**
- 18 **with an applicable requirement; or**
- 19 (B) **determine or calculate an enforceable emission**
- 20 **limitation, including:**
- 21 (i) **rate of operation;**
- 22 (ii) **rate of production;**

- 1 (iii) rate of raw material usage;
- 2 (iv) material balance; or
- 3 (v) equipment capacity;
- 4 if the information is contained in a permit or the technical
- 5 support document to ensure that the permit is practically
- 6 enforceable under state or federal law.
- 7 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) The air pollution
- 8 control board shall, as expeditiously as possible and before March
- 9 1, 2004, adopt:
- 10 (1) rules that incorporate by reference the definitions and
- 11 requirements of:
- 12 (A) 40 CFR 51.165; and
- 13 (B) 40 CFR 51.166;
- 14 as in effect on March 3, 2003; and
- 15 (2) rules that establish significant net emission increase rates
- 16 for pollutants as follows:
- 17 (A) Seven thousandths (0.007) of a ton per year for asbestos.
- 18 (B) Four ten-thousandths (0.0004) of a ton per year for
- 19 beryllium.
- 20 (C) One-tenth (0.1) of a ton per year for mercury.
- 21 (D) One (1) ton per year for vinyl chloride.
- 22 (b) In the adoption of rules under subsection (a)(1), the board
- 23 may establish a requirement that no proposed:
- 24 (1) major stationary source; or
- 25 (2) major modification of a stationary source;
- 26 may cause an emissions increase that will exceed eighty percent
- 27 (80%) of the available growth increment allowed under the
- 28 prevention of significant deterioration air permit program.
- 29 (c) Information describing emission increase rates referred to in
- 30 subsections (a)(2) and (b)(2) that is obtained by the department of
- 31 environmental management is emission data (as defined in
- 32 IC 13-11-2-66.2).
- 33 (d) The following do not apply to the adoption of rules under
- 34 subsection (a):
- 35 (1) IC 13-14-9-3.
- 36 (2) IC 13-14-9-4.
- 37 (e) 326 IAC 2-2 is void to the extent that it is inconsistent with the
- 38 rules adopted under subsection (a) on the date on which the rules
- 39 adopted under subsection (a) take effect.
- 40 (f) Nothing in this SECTION may be construed as preventing the
- 41 department of environmental management from receiving
- 42 approval from the United States Environmental Protection Agency
- 43 to administer the prevention of significant deterioration air permit
- 44 program.
- 45 (g) This SECTION expires January 1, 2005.
- 46 SECTION 3. An emergency is declared for this act.
- (Reference is to ESB 440 as reprinted April 10, 2003.)

**Conference Committee Report**  
**on**  
**Engrossed Senate Bill 440**

**S**igned by:

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Senator Gard  
Chairperson

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Representative Bottorff

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Senator Hume

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Representative Heim

**Senate Conferees**

**House Conferees**